



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF

JUL 31 2006

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James Probst
Plant Manager
Kerry Ingredients
100 E Washington
Millstadt, Illinois 62260

Re Finding of Violation, 40 C F R Part 82, Subpart F

Dear Mr Probst

The United States Environmental Protection Agency (EPA) is issuing the enclosed Finding of Violation (FOV) to Kerry Ingredients (Kerry) We find that you are violating Section 608 of the Clean Air Act, Protection of Stratospheric Ozone Standards, 42 U S C § 7471g

We have several enforcement options under Section 113(a)(3) of the Clean Air Act, 42 U S C § 7413(a)(3) These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial, civil, or criminal action The options we select may depend on, among other things, the length of time you take to achieve and demonstrate continuous compliance with the rules cited in the FOV

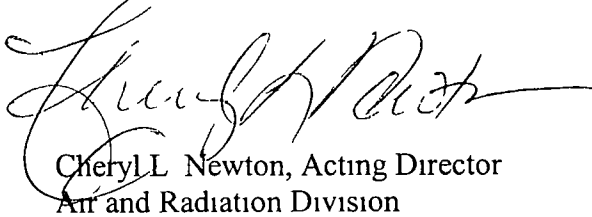
We are offering you an opportunity to confer with us about the violations alleged in the FOV The conference will give you the opportunity to present information on the specific findings of violation, the efforts you have taken to comply, and the steps you will take to prevent future violations

Please plan for your company's technical and management personnel to attend the conference to discuss compliance measures and commitments You may have an attorney represent you at this conference

The contacts in this matter are Kathryn Siegel, Environmental Scientist, and Cynthia A King, Associate Regional Counsel You may call them at (312) 353-1377 and (312) 886-6831, respectively, to request a conference You should make the request as soon as possible, but no

later than 10 calendar days after you receive this letter We should hold any conference within
30 calendar days of your receipt of this letter

Sincerely yours,

A handwritten signature in black ink, appearing to read "Cheryl L. Newton", with a long horizontal flourish extending to the right.

Cheryl L. Newton, Acting Director
Air and Radiation Division

Enclosure

cc Julie Armitage, Acting Manager
Compliance and Enforcement Section
Illinois Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF

Kerry Ingredients
Millstadt, Illinois

Proceedings Pursuant to
the Clean Air Act,
42 U S C §§ 7401 et seq

FINDING OF VIOLATION

EPA-5-06-25-IL

FINDING OF VIOLATION

The United States Environmental Protection Agency (EPA) finds that Kerry Ingredients (Kerry) has violated Section 608 of the Clean Air Act (Act), 42 U S C § 7471g. Specifically, Kerry has violated the Protection of Stratospheric Ozone Standards at 40 C F R Part 82, Subpart F, Recycling and Emissions Reduction, as follows

Regulatory Authority

- 1 Section 608 of the Act, 42 U S C § 7471g, requires the Administrator of EPA to promulgate regulations establishing standards and requirements regarding the use and disposal of "Class I" and "Class II" ozone-depleting substances
- 2 On May 14, 1993, in accordance with Section 608 of the Act, EPA promulgated regulations at 40 C F R Part 82, Subpart F, applicable to Recycling and Emissions Reduction (the Subpart F regulations)
- 3 40 C F R § 82 150(b) provides that the Subpart F regulations apply to any "person" servicing, maintaining, or repairing "appliances," as those terms are defined at 40 C F R § 82 152
- 4 The Subpart F regulations, at 40 C F R § 82 156(i)(2), require that an owner or operator of industrial process refrigeration equipment normally containing more than 50 pounds of refrigerant must have leaks repaired if the appliance is leaking at a rate such that the loss of refrigerant will exceed 35 percent of the total charge during a 12-month period. Repairs must bring annual leak rates to below 35 percent during a twelve month period
- 5 The Subpart F regulations, at 40 C F R § 82 156(i)(9), require that owners or operators of industrial process refrigeration equipment must repair leaks pursuant to 40 C F R § 82 156(i)(2) within 30 days after discovery of the leak

- 6 The Subpart F regulations, at 40 C F R § 82 156(i)(3), require that an owner or operator of industrial process refrigeration equipment conduct an initial verification test at the conclusion of the repair efforts
- 7 The Subpart F regulations, at 40 C F R § 82 156(i)(3), require that an owner or operator of industrial process refrigeration equipment conduct a follow-up verification test within 30 days after the initial verification test
- 8 The Subpart F regulations, at 40 C F R § 82 156(i)(6), state that an owner or operator of industrial process refrigeration equipment are not required to repair a leak if they develop a one-year retrofit and retirement plan within 30 days of discovering the exceedance of the applicable leak rate or within 30 days of a failed follow-up verification test The plan must be dated and kept at the site of the appliance
- 9 The Subpart F regulations, at 40 C F R § 82 156(i)(3)(ii), require that an owner or operator of industrial process refrigeration equipment must retrofit or retire such equipment within one year of failing the follow-up verification test
- 10 The Subpart F regulations, at 40 C F R § 82 156(i)(3)(iii), require that an owner or operator of industrial process refrigeration equipment that fails a follow-up verification test must notify U S EPA within 30 days of the failed follow-up verification test

Finding of Facts

- 12 Kerry owns and operates a bread crumb manufacturing facility in Millstadt, Illinois (the Facility) The Facility contains six industrial process refrigeration units with normal charges of over 50 pounds, including the following units
 - a North West Dehumidifier
 - b South West Dehumidifier
 - c South East Dehumidifier
 - d North East Dehumidifier

The industrial process refrigeration units referenced above are “appliances,” as defined in 40 C F R § 82 152, and use the class II refrigerant R-22

- 13 Between June 1, 2001 and June 1, 2006, the industrial process refrigeration units, North West Dehumidifier, South West Dehumidifier, South East Dehumidifier and North East Dehumidifier, all experienced leaks that resulted in an annual leak rate exceeding 35 percent
- 14 Kerry did not perform repairs on the North West Dehumidifier that resulted in returning the annual leak rate to below 35 percent on the following dates
 - a August 19, 2005

- b October 14, 2005
- 15 Kerry failed to perform initial verification tests to verify that the repairs performed on the following dates had brought the leak rate of the North West Dehumidifier to below 35 percent
 - a August 19, 2005
 - b October 14, 2005
- 16 Kerry failed to perform follow-up verification tests to verify that the repairs performed on the following dates had brought the leak rate of the North West Dehumidifier to below 35 percent
 - a August 19, 2005
 - b October 14, 2005
- 17 Kerry did not develop retrofit or retirement plans for the North West Dehumidifier when repairs performed on August 19, 2005 were unable to bring the leak rate to below 35 percent
- 18 Kerry did not retrofit or retire the North West Dehumidifier within one year when repairs performed on August 19, 2005 were unable to bring back the leak rate below 35 percent
- 19 Kerry did not notify the EPA after repairs on the North West Dehumidifier on the following dates failed to bring the leak rates to below 35 percent
 - a August 19, 2005
 - b October 14, 2005
- 20 Kerry did not perform repairs on the South West Dehumidifier that resulted in returning the annual leak rate to below 35 percent on the following dates
 - a October 14, 2005
 - b December 12, 2005
 - c February 25, 2006
- 21 Kerry failed to perform initial verification tests to verify that the repairs performed on the following dates had brought the leak rate of the South West Dehumidifier to below 35 percent
 - a October 14, 2005
 - b December 12, 2005

- 22 Kerry failed to perform follow-up verification tests to verify that the repairs performed on the following dates had brought the leak rate of the South West Dehumidifier to below 35 percent
- a October 14, 2005
 - b December 12, 2005
 - c February 25, 2006
- 23 Kerry did not develop retrofit or retirement plans for the South West Dehumidifier when repairs performed on October 14, 2005 were unable to bring the leak rate to below 35 percent
- 24 Kerry did not retrofit or retire the South West Dehumidifier within one year when repairs performed on October 14, 2005 were unable to bring back the leak rate below 35 percent
- 25 Kerry did not notify the EPA after repairs on the South West Dehumidifier on the following dates failed to bring the leak rates to below 35 percent
- a October 14, 2005
 - b December 12, 2005
 - c February 25, 2006
- 26 Kerry did not perform repairs on the South East Dehumidifier that resulted in returning the annual leak rate to below 35 percent on the following dates
- a September 23, 2005
 - b March 3, 2006
- 27 Kerry failed to perform initial verification tests to verify that the repairs performed on September 23, 2005 had brought the leak rate of the South East Dehumidifier to below 35 percent
- 28 Kerry failed to perform follow-up verification tests to verify that the repairs performed on the following dates had brought the leak rate of the South East Dehumidifier to below 35 percent
- a September 23, 2005
 - b March 3, 2006
- 29 Kerry did not develop retrofit or retirement plans for the South East Dehumidifier when repairs performed on September 23, 2005 were unable to bring the leak rate to below 35 percent

- 30 Kerry did not retrofit or retire the South East Dehumidifier within one year when repairs performed on September 23, 2005 were unable to bring back the leak rate below 35 percent
- 31 Kerry did not notify the EPA after repairs on the South East Dehumidifier on the following dates failed to bring the leak rates to below 35 percent
- a September 23, 2005
 - b March 3, 2006
- 32 Kerry did not perform repairs on the North East Dehumidifier that resulted in returning the annual leak rate to below 35 percent on the following dates
- a January 3, 2003
 - b September 12, 2003
 - c January 23, 2004
 - d October 1, 2004
 - e January 8, 2005
 - f March 4, 2005
 - g June 3, 2005
 - h November 18, 2005
 - i December 22, 2005
- 33 Kerry failed to perform initial verification tests to verify that the repairs performed on the following dates had brought the leak rate of the North East Dehumidifier to below 35 percent
- a January 23, 2004
 - b October 1, 2004
 - c November 18, 2005
 - d December 22, 2005
- 34 Kerry failed to perform follow-up verification tests to verify that the repairs performed on the following dates had brought the leak rate of the North East Dehumidifier to below 35 percent
- a January 3, 2003
 - b September 12, 2003
 - c January 23, 2004
 - d October 1, 2004
 - e January 8, 2005
 - f March 4, 2005
 - g June 3, 2005
 - h November 18, 2005
 - i December 22, 2005

- 35 Kerry did not develop retrofit or retirement plans for the North East Dehumidifier when repairs performed on the following dates were unable to bring the leak rate to below 35 percent
- a January 3, 2003
 - b January 23, 2004
 - c March 4, 2005
- 36 Kerry did not retrofit or retire the North East Dehumidifier within one year when repairs performed on the following dates were unable to bring the leak rate below 35 percent
- a January 3, 2003
 - b January 23, 2004
 - c March 4, 2005
- 37 Kerry did not notify the EPA after repairs on the North East Dehumidifier on the following dates failed to bring the leak rates to below 35 percent
- a January 3, 2003
 - b September 12, 2003
 - c January 23, 2004
 - d October 1, 2004
 - e January 8, 2005
 - f March 4, 2005
 - g June 3, 2005
 - h November 18, 2005
 - i December 22, 2005

Violations

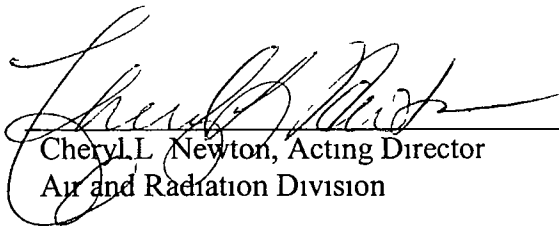
- 38 Kerry is in violation of 40 C F R § 82 156(1)(2) and Section 608 of the Act, 42 U S C § 7471g, for failing to repair leaking industrial process refrigeration equipment at the Facility such that the annual leak rate is brought below 35 percent
- 39 Kerry is in violation of 40 C F R § 82 156(1)(3) and Section 608 of the Act, 42 U S C § 7471g, for failing to properly conduct initial verification tests on leaking industrial process refrigeration equipment at the Facility
- 40 Kerry is in violation of 40 C F R § 82 156(1)(3) and Section 608 of the Act, 42 U S C § 7471g, for failing to properly conduct follow-up verification tests on leaking industrial process refrigeration equipment at the Facility
- 41 Kerry is in violation of 40 C F R § 82 156(1)(6) and Section 608 of the Act, 42 U S C

§ 7471g, for failing to develop a one-year retrofit and retirement plan for leaking industrial process refrigeration equipment at the Facility following an exceedance of the applicable leak rate or a failed follow-up verification test

- 42 Kerry is in violation of 40 C F R § 82 156(i)(3)(ii) and Section 608 of the Act, 42 U S C § 7471g, for failing to retrofit or replace leaking industrial process refrigeration equipment at the Facility following an exceedance of the applicable leak rate or a failed follow-up verification test
- 43 Kerry is in violation of 40 C F R § 82 156(i)(3)(iii) and Section 608 of the Act, 42 U S C § 7471g, for failing to notify the EPA of failed follow-up verification tests on industrial process refrigeration equipment at the Facility

Date

7/31/06


Cheryl L. Newton, Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent a Finding of Violation, No EPA-5-06-25-IL

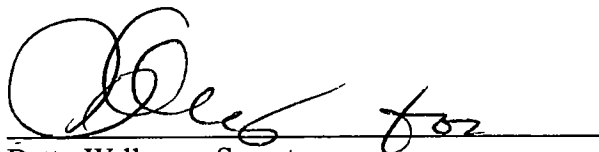
by Certified Mail, Return Receipt Requested, to

James Probst
Plant Manager
Kerry Ingredients
100 E Washington
Millstadt, Illinois 62260

I also certify that I sent copies of the Finding of Violation by first class mail to

Julie Armitage, Acting Manager
Compliance and Enforcement Section, Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

on the 31 day of July, 2006


Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER 7001 0320 0006 1447 9154

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 Originating Organization reading file
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other bcc's Cynthia King, C-14J

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